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DEERE & COMPANY
Patent Department
One John Deere Place
Moline, IL 61265-8098

EXAMINER

MCALEENAN, JAMES M

ART UNIT PAPER NUMBER

3745

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,619

Applicant(s)

WIKNER, AARON DAVID

Examiner

James M McAleenan

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) 6-11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/30/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the passage in the shroud must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 6 is objected to because of the following informalities: Claim 6, recites "the first section of the shroud a passage is formed there between", examiner suggests inserting a coma after shroud so as to be grammatically correct. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. Claim 1 recites the limitation "portal" in line 4. There is insufficient antecedent basis for this limitation in the claim. When writing claims the examiner suggests to use the same language as presented in the specification, it only makes sense to present the Applicant's claim invention in the most clear & concise terms possible. Portal is not the same as nozzle, please reference a dictionary. Is the Applicant disclosing the aspirator port (54) or the nozzle (46) as the portal? (see Specification page 2, last full paragraph).

2. Claim 2 recite the limitation "first and second sections" in lines 1-2. When writing claims the examiner suggests to use the same language as presented in the specification, it only makes sense to present the Applicant's claim invention in the most clear & concise terms possible. The first and second sections are NOT the same as upper and lower sections. Nowhere in the specification are the first and second sections disclosed? The examiners suggests to amend the specification, so as the specification agrees with the claim language.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hudson (U.S. Patent Number 5,427,502). Hudson discloses a fan shroud (10) (see Figure 1-3 and Col. 2, lines 12-13) aspirator for use with a pre-cleaner (24) (see Figure 1-3 and Col. 2, lines 12-13) having an

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aspirator port, wherein the shroud (10) is disposed between the fan and a cooling module (see Figure 1-3 and Col. 2, lines 22-45). Hudson discloses a passage in a surface of the fan shroud (10), wherein the passage communicates between portal and an aperture provided in the fan shroud (10) proximal to the fan (see Figure 1-3 and Col. 2, lines 25-55). Hudson discloses the pre-cleaner (24) being mounted to the fan shroud (10), wherein the aspirator port is in direct communication with the passage via the portal (see Figure 1-3 and Col. 2, lines 59-68). Hudson discloses a vacuum necessary for proper aspiration of the pre-cleaner provided by an air-flow induced by the fan (12) through the passage (see Figure 1-3 and Col. 2, lines 20-41 and 59-68).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson (U.S. Patent Number 5,427,502). The Hudson device in the rejection of claim 1 above, discloses all the claimed elements including (Regarding claim 4) an air duct molded therein to the shroud. Regarding claim 5, the Hudson device discloses the air duct having a first channel molded in the shroud and the second channel molded in the duct cover. However, the Hudson device does not disclose (regarding claim 2) the fan shroud having a first and second section. The Hudson device does not disclose (regarding claim 3) the first and second section each having mating flanges whereby the first and the second section are united to form a complete fan shroud.

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Since Applicant has not disclosed that having the shroud being one piece or two section solves any stated problem or is for any particular purpose above the fact to provide a shroud and it appears that having the specific shroud of the Hudson device would perform equally well, as claimed by applicant, it would have been an obvious matter of design choice to modify the shroud of the Hudson device by using two sections of the shroud as claimed.

Allowable Subject Matter

Claims 6-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 6 recites "each channel having a cross-section, wherein the duct cover is mated to the shroud where a passage is formed there between" which is the novel feature, since claims 7-11 depend from claim 6, those claims are included.

PRIOR ART

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of "no cited patents" by the examiner.

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CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M McAleenan whose telephone number is 703-308-2827.

The examiner can normally be reached on M-F 8:30-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on 703-308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James M. McAleenan
Patent Examiner
703-308-2827

J. McAleenan 10/27/04

F. Daniel Lopez
F. DANIEL LOPEZ
PRIMARY EXAMINER